

**SAPIR & FRUMKIN LLP**

ATTORNEYS AT LAW

399 KNOLLWOOD ROAD, SUITE 310

WHITE PLAINS, NEW YORK 10603

WRITER'S E-MAIL: WFrumkin@sapirfrumkin.com

TEL: (914) 328-0366  
FAX: (914) 682-9128

PARALEGAL  
RACHEL L. HORTON

DONALD L. SAPIR  
WILLIAM D. FRUMKIN\*

DANIEL T. DRIESEN<sup>Δ</sup>  
KATHRYN E. WHITE\*\*  
EMILY A. ROSCIA<sup>Δ</sup>  
CRISTINA A. FAHRBACH\*\*  
WILLIAM F. CUSACK III

\*ADMITTED IN N.Y. & CT.  
\*\*ADMITTED IN N.Y. & N.J.  
<sup>Δ</sup>ADMITTED IN N.Y. & MA.

March 8, 2007

**Via Facsimile and Regular Mail**  
**Facsimile No. (212) 252-9310**

Seth H. Borden, Esq.  
Kreitzman, Mortensen, & Borden  
114 East 32<sup>nd</sup> Street, Suite 1000  
New York, New York 10016

**Re: Teamsters Local 445 Freight Division Pension  
Fund and Teamsters Local 445 Education and  
Training Fund v. Watson Services, Inc.  
Our File No. 04-7501**

Dear Seth:

Please accept this letter in response to your correspondence of January 23, 2007 regarding the ongoing issue of penalties for late payments of contributions to Local 445 Pension Fund by Watson Services, Inc. ("WSI"). Without restating our positions, which have been fully set forth in prior communications, we believe the Trustees' intent regarding these penalties will be made clear at the meeting you were invited to attend. As per the message left at your office yesterday, the meeting shall take place on Friday, March 9, 2007, and you will be permitted to address the Board at approximately noon. We further agree that amendments to correct the misstatements in the fund documents will render this issue moot in the future, as will your client's anticipated compliance with the Contribution obligations that has not been consistently found in the past.

Regarding request for documents, in your letter you reiterate your demand that, in connection with this dispute, Local 445 provide WSI the following: (A) the name and address of all employers contributing to the Freight Pension Fund who have CBA's with the Union, (B) the name and address of all employers or other entities contributing to the Freight Pension Fund who do not have a CBA

Seth H. Borden, Esq.

-2-

March 8, 2007

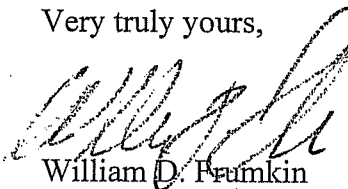
with the Union, and (C) the name and address of the decision-makers for each entity identified in response to requests (A) and (B). In support of your request you rely heavily on *Food Drivers, Helpers & Warehouseman Empls., Loc. 500 (Acme Markets)*, 340 NLRB 251 (2003), for the proposition that Local 445 has a duty to provide this information as relevant under the administration of the collective bargaining agreement. Your reliance on *Acme Markets* is misplaced as we fail to see the relevance of the information sought to the issue that is in dispute.

In *Acme Markets*, the collective bargaining agreements between the union and other employers was relevant because they were sought in connection with the administration of a "most favored nations" clause. 340 NLRB at 252-53. That clause required that the union not enter into an agreement with another employer with terms that were better than the ones agreed to by Acme Markets. *Id.* Accordingly, the application of Acme Market's collective bargaining agreement was predicated on the terms and conditions set forth in every other agreement negotiated by the bargaining unit representative, and therefore that information was required to be provided to the employer. *Id.* at 253 ("a request for information about agreements with other employers is presumptively relevant to the administration of a "most favored nations" clause").

Our dispute is easily distinguished from that of *Acme Markets* and the other cases you cited. Here, there is no connection whatsoever between WSI's obligation to pay late payment penalties and the identity of other employers contributing to the Local 445 Pension Fund. WSI's obligation to pay late payment penalties solely arises under the WSI collective bargaining agreement and the Restated Trust Agreement. You have not demonstrated how the interpretation of these documents is in any way related to the identity of other contributing employers of the pension fund. Although we cannot envision a rationale to support your request, we welcome a more specific explanation if you can provide it. Absent a sufficient explanation, Local 445 will not honor your request.

Thank you for your attention this matter. Please contact me if you have any questions.

Very truly yours,



William D. Frankin

WDF:DTD

cc: Douglas L. McCauley, Fund Chairman (via facsimile)  
Sharon Molinelli, Fund Administrator (via facsimile)  
David Kramer, Esq. (via hand delivery)